

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 28.198

transfer to a foreign-trade zone or a customs bonded warehouse.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062); sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF-82, 46 FR 21159, Apr. 9, 1981]

§§ 28.194–28.195 [Reserved]

§ 28.195b Claims on spirits tax determined on and after January 1, 1980.

(a) *Preparation.* Claims for drawback of tax on spirits tax determined on and after January 1, 1980, and withdrawn for any purpose authorized by § 28.171, shall be prepared in duplicate by the bottler or packager on parts II and III of TTB Form 5110.30.

(b) *Supporting documents.* Each claim shall be supported by an invoice, bill of lading or other document which identifies the date of tax determination, unless the bill of lading required by § 28.250 identifies this date. Additional supporting documents are required if the claim covers distilled spirits products on which the claimed drawback rate exceeds the rate of tax imposed by 26 U.S.C. 5001 or 7652 on each proof gallon or part thereof of distilled spirits produced in or imported into the United States (e.g., a product containing alcoholic flavoring materials on which drawback has been claimed by the manufacturer of the material under 26 U.S.C. 5131–5134). For each such product, the additional supporting documents shall consist of a copy of each related dump and batch record, package gauge record as prescribed in 27 CFR part 19, and/or bottling and packaging record. The appropriate TTB officer may also require these or other supporting documents for any distilled spirits product.

(c) *Filing.* One copy of the claim, with supporting documents, if required, shall be filed with the appropriate TTB

officer. The bottler or packager shall retain the other copy on file.

(Approved by the Office of Management and Budget under control number 1512-0198)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. ATF-212, 50 FR 34123, Aug. 23, 1985; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.196 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits removed under this subpart for export, use on vessels or aircraft, transfer to a customs bonded warehouse, or transfer to a foreign-trade zone, shall be in accordance with the applicable provisions of subpart M of this part.

(72 Stat. 1336, 84 Stat. 1965; 26 U.S.C. 5062, 5066)

[T.D. 7112, 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 28.197 Return of spirits withdrawn for export with benefit of drawback.

When notice is filed by an exporter as provided in § 28.198, spirits on which the tax has been paid or determined, and which were withdrawn especially for export with benefit of drawback as provided in § 28.171, but which spirits have not been laden for export, laden for use, or deposited in a customs bonded warehouse or foreign-trade zone, may for good cause be returned under the applicable provisions of this part and 27 CFR part 19:

(a) To the bonded premises of the distilled spirits plant for purposes authorized under 26 U.S.C.; or

(b) To a wholesale liquor dealer; or

(c) To a taxpaid storeroom.

The export marks on spirits returned under this section shall be removed by obliteration, relabeling or recasing.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23956, June 7, 1985; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.198 Notice of return.

If an exporter desires to return spirits to a distilled spirits plant, wholesale liquor dealer or taxpaid storeroom,

§ 28.199

as provided in § 28.197, he shall file a notice, executed under the penalties of perjury, with the appropriate TTB officer. The notice shall be prepared in triplicate for submission to the customs official as required in § 28.199. The notice shall show the:

- (a) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits;
- (b) Date and serial number of the TTB Form 5110.30 on which the spirits were withdrawn;
- (c) Present location of the spirits to be returned;
- (d) Number, size and identification of the containers;
- (e) Proof of spirits;
- (f) Reason for the return; and
- (g) Planned disposition of the returned spirits.

(Approved by the Office of Management and Budget under control number 1512-0206)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8562, Mar. 1, 1985, as amended at T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.199 Responsibility for return of spirits withdrawn for export with benefit of drawback.

The exporter shall be responsible for arranging the return of the spirits under this subpart to the proprietor or wholesale liquor dealer who will receive them. The exporter or his agent shall submit the original and copies of the notice required by § 28.198 to the appropriate customs official. If the spirits are returned before TTB Form 5110.30 has been filed with the customs official, the exporter shall submit Form 5110.30 with the notice. The customs officer shall, if the spirits are eligible for return under § 28.197, accept the notice as authority for the return of the spirits to the premises identified in the notice. The customs official shall acknowledge receipt on the notice, retain a copy, and return the original and one copy of the notice to the exporter. The exporter shall retain the copy of the notice and file the

27 CFR Ch. I (4-1-07 Edition)

original of the notice with the appropriate TTB officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8562, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

Subpart J [Reserved]

Subpart K—Exportation of Wine With Benefit of Drawback

§ 28.211 General.

Wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are filled on premises qualified under this chapter to package or bottle wines, may, subject to this part, be:

- (a) Exported;
- (b) Laden for use on the vessels or aircraft described in § 28.21; or
- (c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

On receipt by the appropriate TTB officer of required evidence of exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on the wines.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-51, 43 FR 24245, June 2, 1978; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.212 Persons authorized.

Persons who have qualified under this chapter as proprietors of distilled spirits plants, bonded wine cellars, or taxpaid wine bottling houses, and persons who are wholesale liquor dealers as defined in section 5112, I.R.C., and have paid the required tax as a wholesale liquor dealer, are authorized to remove wines under the provisions of this subpart.

(72 Stat. 1336; 26 U.S.C. 5062)